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11 UNITED STATES DISTRICT COURT
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13 NORTHERN DIVISION OF CALIFORNIA
14
15 SAN FRANCISCO DIVISION
16

17 U.S. COMMODITY FUTURES
18 TRADING COMMISSION AND THE
19 COMMISSIONER OF
20 CORPORATIONS OF THE STATE OF
21 CALIFORNIA,

22 Plaintiffs,

23 vs.

24 NATIONAL INVESTMENT
25 CONSULTANTS, INC., a California
26 Corporation, PACIFIC BEST GROUP,
27 LTD., aka PACIFIC BEST COMPANY
28 LTD., a British Virgin Islands
Corporation, YI KERRY XU, an
individual, and WEI M. TSE, aka
RAYMOND TSE, an individual,

Defendants.

And

THERESA C. WONG, an individual,

Relief Defendant.

CASE NO. 052641 JSW

**DECLARATION OF YI KERRY XU IN
OPPOSITION TO PLAINTIFFS *EX PARTE*
MOTION FOR PRELIMINARY
INJUNCTION**

DECLARATION OF YI KERRY XU

I, Yi Kerry Xu, declare as follows:

1.) I was born in 1969, am a citizen of the Republic of China, and came to the United States in late 2001. I currently hold an Immigration and Naturalization Service green card giving me immigration status to be live and be employed in the United States. I currently reside in 300 Davey Glen, Belmont, California 94400. .

2.) From the period of approximately December 2002 until June of 2005, I was employed by South China Investments, a defendant in the above action. I obtained the job by responding to an advertisement in a Chinese community newspaper. At the time I responded to the advertisement, I had no foreign currency, futures or stock and option experience of any kind whatsoever.

3.) I was hired at South China by Raymond Tse, who provided me with several weeks of classroom style training for approximately 2 hours a day. After my training period was over, I was allowed to handle customer accounts. I was to be paid a percentage of 33% of the \$100 commission charged to every South China customer per trade.

4.) I only opened approximately three accounts (excluding my own) while I was employed at South China. One of those accounts was the account of Mr. Stephen Ting. My approximate income from South China was \$15,000 to \$20,000 per year, with an occasional cash bonus for a good month of up to \$500.

5.) After some period of time which I no longer recall, I was made an administrative sales manager to assist other account executives like myself. I also assisted in providing the new employees with the training that I received when I came to the company.

Yi Kerry Xu

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PROOF OF SERVICE

I declare that I am employed in the County of Los Angeles, California. I am over the age of eighteen years and not a party to the within case; my business address is: Cotton & Gundzik LLP, 801 South Figueroa Street, Suite 1400, Los Angeles, California 90017.

On August 12, 2005, I served the following document(s) described as:

Decl. of Xu

on the following interested parties in this action:

KEVIN BATTEH
JAMES HOLL
U.S. Commodity Futures Trading Commission
1155 21st Street NW
Washington, DC 20581

FRED KONIGSBERG
Law offices of Fred Konigsberg
One Post Street, Suite 2550
San Francisco, CA 94104

Alan S. Weinger
Edward Kelly Shinnick
Corporations Counsel
71 Stevenson Street, Suite 2100
San Francisco, CA 94105-2908

Edward Gartenberg
Alexandra Epand
Thelen Reid & Priest LP
333 South Hope Street, Suite 2900
Los Angeles, CA 90071-3048

☐ **(BY TELEFACSIMILE TRANSMISSION)** at approximately
[] AM [] PM, from the telefacsimile transmitting machine at the offices of
Cotton & Gundzik LLP, 801 South Figueroa Street, Suite 1400, Los Angeles, California
90017 [facsimile number (213) 312-1330], to the attention of the following interested
parties in this action, at addressee's facsimile no.:

This transmission was reported as complete and without error. The attached
transmission confirmation report was properly issued by the transmitting facsimile
machine.

☐ **(BY OVERNIGHT DELIVERY)**
☐ BY FEDERAL EXPRESS DELIVERY
☐ BY UNITED STATES EXPRESS MAIL
☐ BY EXPRESS DELIVERY SERVICE

☒ **(BY MAIL)** ☐ **(BY CERTIFIED MAIL)** by placing a true copy thereof in a
sealed envelope with postage fully prepaid. I am readily familiar with the business
practice of Cotton & Gundzik LLP for collection and processing of correspondence

1 for mailing with the United States Postal Service, and the correspondence would be
2 deposited with the United States Postal Service that same day in the ordinary course
of business.

3 I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct. Executed on August 12, 2005 at Los Angeles, California.

5 Diane M. Gotori
6 name

signature